

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

724 MANAGEMENT, LLC,

Plaintiff,

- against -

SANTANDER BANK, N.A.,

Defendant.

Complaint for Civil Case

Case No. 1:23-cv-09247

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff 724 Management, LLC (hereinafter “724” or “Plaintiff”), by and through its undersigned counsel, Weltz Kakos Gerbi Wolinetz Volynsky LLP, hereby alleges against Defendant Santander Bank (hereinafter “Santander” or “Defendant”) the following:

JURISDICTION AND VENUE

1. The Court has subject-matter jurisdiction over this action under 28 U.S.C. § 1332 and § 1441, because this is a civil action between a citizen of the State of Delaware and a citizen of New York and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.
2. The Court has personal jurisdiction over the Defendant as it has accepted service of the Summons with Notice on November 22, 2023.

PARTIES

3. 724 Management, LLC is a Limited Liability Company formed and existing under the laws of the State of New York, with an address of 278 44th Street, Suite 3, Brooklyn, NY 11232.
4. Santander is a national bank association organized and existing under the laws of the United States and chartered in Delaware with a principal place of business located at 75 State Street, Boston, MA 02109. Santander was formerly known as Sovereign Bank, N.A..

FACTUAL BACKGROUND

5. Plaintiff is the owner in fee simple of two parcels in Brooklyn, New York better described as 4402 3rd Avenue, Brooklyn, NY 11220 and 4404 3rd Avenue, Brooklyn, NY 11220.

4402 PROPERTY LOAN

6. On or about August 6, 2013, Plaintiff executed a Consolidated Promissory Note in favor of Sovereign in the amount of \$800,000.00 (hereinafter “4402 Consolidated Note”). A copy of the 4402 Consolidated Note is annexed as Exhibit “A”.
7. Plaintiff also executed a Consolidation, Modification and Extension agreement dated August 6, 2013 (hereinafter “4402 Consolidation Agreement”), securing certain real property commonly known as 4402 3rd Avenue, Brooklyn, NY 11220, which was recorded in the Office of the City Registrar of the City of New York on September 4, 2013, at CRFN: 20130000354730. A copy of the 4402 Consolidation Agreement is annexed as Exhibit “B”.
8. Contemporaneously, Plaintiff executed a Commercial Security Agreement (hereinafter “4402 Security Agreement”). A copy of the 4402 Security Agreement is annexed hereto as Exhibit “C”.
9. On or about March 30, 2021, Santander Bank, N.A. f/k/a Sovereign Bank, N.A. assigned its interest in the aforementioned loan to CL45 MW Loan 1, LLC, which was recorded in the Office of the City Registrar of the City of New York on May 11, 2021 at CRFN: 2021000173157 (hereinafter “4402 Assignment”). A copy of the 4402 Assignment is annexed as Exhibit “D”.

4404 PROPERTY LOAN

10. On or about August 6, 2013, Plaintiff executed a written Consolidated Note and Consolidation, Modification, and Extension Agreement dated August 6, 2013, in favor of Sovereign, and recorded in the Office of the City Registrar of the City of New York on September 4, 2013 at CRFN: 2013000354693 (hereinafter the “4404 Consolidation Agreement”). A copy of the 4404 Consolidation Agreement is annexed hereto as Exhibit “E”.

11. In connection with the 4404 Consolidation Agreement, Plaintiff entered into and executed a certain Assignment of Leases and Rents, which was recorded in the Office of the City Registrar for the City of New York, on September 4, 2013, as CRFN: 2013000354694, (hereinafter the “4404 Assignment of Leases”). A copy of the 4404 Assignment of Leases is annexed hereto as Exhibit “F”.
12. Additionally, Plaintiff entered into and executed a Commercial Security Agreement (hereinafter “4404 Security Agreement”). A copy of the 4404 Security Agreement is annexed hereto as Exhibit “G”.
13. On or about March 31, 2021, Santander assigned its interest to CL45, which was recorded in the Office of the City Registrar of the City of New York on May 11, 2021 at CRFN: 2021000173159, (hereinafter the “4404 CL45 Assignment”). A copy of same is annexed hereto as Exhibit “H”.
14. The 4402 Consolidation Agreement and 4404 Consolidation Agreement shall collectively be known as the “Loan”.
15. Per the original terms of the Loan, both loans matured on August 6, 2018.

AS AND FOR THE FIRST CAUSE OF ACTION
(BREACH OF CONTRACT)

16. Plaintiff reiterates and incorporates by reference the allegations contained in paragraphs 1 through 13 of this Complaint, as though fully set forth herein.
17. The terms of the Loan required Plaintiff to pay interest on a monthly basis, with the principal amount due on the agreed maturity date.
18. The Loan matured on August 6, 2018, but Defendant continued to re-calculate the variable rate monthly and mail out payment slips for the interest, per the original loan terms.
19. Defendant also continued to accept and apply Plaintiff’s payments for a period of just under three (3) years thereafter. In fact, Defendant reimburse Plaintiff for a late payment charge on September 11, 2018, in connection with the 4404 Consolidation Agreement.

20. Based upon Defendant's acceptance of funds and reimbursement of late fees, Plaintiff believed the loan terms were renewed for an additional 5-year term.
21. Defendant sold the loan to a new servicer and Plaintiff ceased receiving payment slips.
22. Plaintiff's payments no longer were accepted, by Defendant.
23. Plaintiff made several attempted to get in touch with Defendant, but could not reach a person authorized to speak to him about the loan.
24. Defendant failed to provide Plaintiff with any information as to why the payments were suddenly no longer accepted.
25. Plaintiff received a default letter on October 12, 2021, from Drake Loeb PLLC demanding full repayment for the Loan in full by October 29, 2021.
26. CL45 then commenced two civil actions in the Supreme Court of the State of New York, County of Kings, against Plaintiff on November 24, 2021, under Index No: 530192/2021 and Index No.: 530219/2021 to recover the full principal amounts plus interest, late charges and attorney fees.
27. Plaintiff and Defendant's successor settled both actions on October 19, 2023, for the amount of \$1,300,000.00.

AS AND FOR THE SECOND CAUSE OF ACTION
(BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALINGS)

28. Plaintiff reiterates and incorporates by reference the allegations contained in paragraphs 1 through 17 of this Complaint, as though fully set forth herein.
29. Plaintiff reasonably relied on Santander's continued acceptance of monthly payments for several years thereafter to expect the loan was renewed for an additional term.
30. The applicable interest rate in August of 2018 was approximately 4.3%.
31. Plaintiff was being charged 10.15% in interest before settlement.
32. Defendant failed to provide information necessary for the continued payment of the loan prior to and after it was sold.

33. Defendant failed to provide Plaintiff that the full amount was due, despite accepting payments for years.

PRAYER FOR RELIEF

Plaintiff respectfully demands that this Honorable Court enter judgment against the Defendant as follows:

- (1) On Plaintiff's First Cause of Action, granting judgment in favor of the Plaintiff for an amount in excess of \$1,300,000.00, plus interest and attorney's fees;
- (2) On Plaintiff's Second Cause of Action, granting judgment in favor of the Plaintiff for an amount in excess of \$1,300,000.00, plus interest and attorney fees; and
- (3) For such other relief as this Honorable Court deems just and proper.

Dated: January 14, 2024

**WELTZ KAKOS GERBI WOLINETZ
VOLYNSKY LLP**

By: /s/ Eleni Kakos

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